

**IN THE UNITED STATES DISTRICT COURT
FOR THE NOTHRERN DISTRICT OF TEXAS
DALLAS DIVISON**

JOEY and LILYBETH CALMA

V.

**ALLSTATE VEHICLE AND PROPERTY
INSURANCE COMPANY,
ELSIE TARVER, and JASON
MCLENDON**

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CIVIL ACTION NO. 3:16-CV-02110-B

PLAINTIFFS' OPPOSED MOTION TO REMAND

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

The Court should remand this case back to the 95th Judicial District Court of Dallas County, Texas, because the Court lacks subject matter jurisdiction under 29 U.S.C. §1332 (a) as complete diversity of citizenship between the parties is lacking. Defendant Allstate Vehicle and Property Insurance Company ("Allstate") removed this case to this Court on the sole basis that the Plaintiffs fraudulently joined Elsie Tarver ("Tarver")—a Texas citizen and resident—to this suit in order to avoid the subject matter jurisdiction of this Court. However, Allstate cannot meet its heavy burden of establishing improper joinder because Plaintiffs asserted at least one cause of action against Tarver.

Plaintiffs set forth their detailed arguments and authorities in their Brief in Support of Plaintiffs' Opposed Motion to Remand, which they are filing in conjunction with this motion pursuant to Local Rule CV 7.1(d). Plaintiffs ask this Court, after considering this motion and brief, grant this motion and remand this case back to state court.

Respectfully submitted,

SPEIGHTS & WORRICH

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By: /s/ Eric A. Quiroz
ERIC A. QUIROZ
Texas State Bar No. 24090921

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

This is to certify that I attempted to confer with Eric Bowers, counsel for Defendant, regarding the substance of this Motion to Remand on September 9, 2016. Defense Counsel is opposed to this motion.

/s/ Eric A. Quiroz

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument was forwarded to counsel of record, pursuant to the applicable Federal Rules of Civil Procedure:

VIA FACSIMILE (214) 871-8209

Eric K. Bowers
Roger D. Higgins
THOMPSON, COE, COUSINS & IRONS, L.L.P.
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Dallas, Texas 75201-2832

Dated this 15th day of September, 2016.

/s/ Eric A. Quiroz